



## **HELPING TO ARREST, CONVICT, AND PUNISH CRIMINALS**

SDPD Crime Prevention

April 29, 2016

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Both individuals and businesses have important responsibilities in helping to arrest, convict, and punish criminals. Individuals who are crime victims or witnesses can testify in court and make citizen's arrests. Businesses and property owners can help in several ways, as discussed below.

### **TESTIFYING IN COURT**

Individuals who are crime victims or witnesses have a civic duty to testify in court to help convict criminals. This is an essential element in our criminal justice system. Criminals cannot be prosecuted if community members fail to fulfill this responsibility. Testifying in court also gives victims and witnesses a sense of empowerment and a degree of personal satisfaction from helping to convict the person who committed the crime. However, as in fulfilling any responsibility, it involves some personal inconvenience.

To appear in court you will have to travel to the court and may have to wait before being called to testify. In some cases it might be necessary to make more than one trip for an appearance because court proceedings are often subject to delays and disruptions that cannot be predicted in advance. Some compensation is available however. You will be paid a witness fee that should cover transportation and parking expenses, and you will get an allowance for meals you eat while waiting to testify. Other help can be requested in special situations, e.g., for child care or transportation of a disabled person. Although retaliation is not a problem in the vast majority of cases, personal protection can be requested if a risk of retaliation exists. Finally, victims can get assistance in recovering their financial losses.

Help in getting emergency funds, financial assistance from the California Victim Compensation Program (CalVCP), and referrals to other agencies that provide assistance can be obtained from the San Diego County District Attorney's Victim Witness Assistance Center at **(619) 531-4041**. Information about CalVCP can be obtained online at **[www.calvcp.ca.gov](http://www.calvcp.ca.gov)** or by calling **(800) 777-9229**. Answers to frequently asked questions about being a crime victim are provided in a consumer education pamphlet entitled *What Should I Do If I Am a Crime Victim?* published by the State Bar. The text is available in English and Korean on the State Bar's website at **[www.calbar.ca.gov](http://www.calbar.ca.gov)** by clicking on Consumer Information in the left-hand menu and then on Legal Information, Criminal Justice, and then its title.

After the criminal is convicted, a sentencing hearing is conducted to determine the punishment. Victims, members of their family, and other community members involved in the case should appear before the judge to make suggestions for appropriate punishment and show support for the victim.

### **MAKING A CITIZEN'S ARRESTS**

A citizen's arrest occurs when a private person or a police officer acting on behalf of a private person takes a person into custody in a lawful manner. In the case of a misdemeanor -- a lesser crime than a felony that is generally punishable by imprisonment in the county jail not exceeding six months or by a fine not exceeding \$1,000 or both --

the private person involved must see or hear the crime committed, sign the arrest form, and agree to testify in court before the officer will take the person into custody. If not for citizens' arrests, some persons would not be arrested for committing misdemeanors. This is because a police officer can arrest a person for a misdemeanor only if the crime is committed or attempted in his or her presence. And even then in some situations, e.g., ones involving trespasses, the private person whose rights are violated must sign the arrest form and agree to testify in court before the office will make an arrest. An exception to these rules exists when a minor is involved; then an officer can make an arrest based on probable cause, e.g., a description provided by the victim.

A private person who sees a crime in progress or about to happen that involves serious personal injury, property damage, or property loss, i.e., an emergency, should call **911** immediately. In other cases, i.e., non-emergencies, the crime should be reported by calling the SDPD at **(619) 531-2000** or **(858) 484-3154**. The officer who responds will know whether a citizen's arrest is necessary before taking the suspect into custody.

A private person or another person acting on his/her behalf can also detain a person suspected of committing a crime and hold that person until a police officer arrives. This is often done with shoplifters. Reasonable force can be used to make the arrest, prevent escape, or overcome resistance. However, a private person should never get involved in such an arrest if their safety might be at risk. It is often better to get good descriptions of the persons and any vehicles involved, call **911** immediately, and offer your assistance in identifying and prosecuting the suspects. For example, it is strongly advised that citizens not attempt to arrest graffiti vandals because of the possibility that such criminals might be armed.

In the case of a misdemeanor reckless driving or hit and run in which a private person witnesses the incident and provides the police with a description of the vehicle, a citizen's arrest could occur if the police locate and stop the vehicle in a timely manner and the witness identifies the driver, signs an arrest form, and agrees to testify in court. If the police are unable to locate the vehicle and driver in a timely manner, the misdemeanor becomes "stale" and a different procedure must be followed. The witness would have to identify the driver in a photo lineup and agree to testify in court before the case is sent to the City Attorney for prosecution. (If there are injuries involved, a hit and run becomes a felony, and a police officer can make the arrest on the basis of information provided by the witness.)

## **ACTIONS BY BUSINESSES AND PROPERTY OWNERS**

One way they can help to arrest and convict criminals is to authorize the SDPD to act as their agent and enter their property for purposes of enforcing laws against any person(s) found on the property without their consent or lawful purpose. To do this they should talk to the CRO in their local SDPD Area Station about filing a Letter of Agency. The form for this Letter must be filled out on the SDPD website in the following steps and filed by clicking on Email Form on the bottom left.

1. Go to **[www.sandiego.gov/police/pdf/2013policecitywidemap.pdf](http://www.sandiego.gov/police/pdf/2013policecitywidemap.pdf)** to find out what Police Division covers the neighborhood in which your property is located.
2. Go to the Letter of Agency form at **[www.sandiego.gov/police/pdf/letterofagency.pdf](http://www.sandiego.gov/police/pdf/letterofagency.pdf)**.
3. Click RESET FORM to get the start and expiration dates.
4. Use the drop down menu to enter the Police Division.
5. Fill in the blue blanks on the form.

You can skip the first step if you know what division covers your property. Then you do the following and click on Email Form on the bottom left.

1. Go to the Letter of Agency form at **[www.sandiego.gov/police/pdf/letterofagency.pdf](http://www.sandiego.gov/police/pdf/letterofagency.pdf)**.
2. Click RESET FORM to get the start and expiration dates.
3. Use the drop down menu to enter the SDPD division that covers your property.
4. Fill in the blue blanks on the form.

Note that the Letter must be renewed every 12 months.

Also, the property should be posted with NO TRESPASSING signs stating that a Letter of Agency has been filed with the SDPD and giving the address of the property, the name and phone number of the property owner or manager, and

the non-emergency SDPD phone number to report suspicious activities. That number is **(619) 531-2000** or **(858) 484-3154**. The signs should be at least 18 by 24 inches in size, have a font visible from the nearest public street, not be accessible to vandals, and be posted on the entrances and spaced evenly on the boundaries of the property. A sample sign is also available by clicking on View a Sample Sign on the Forms page of the SDPD website at **[www.sandiego.gov/police/forms/forms](http://www.sandiego.gov/police/forms/forms)**.

Although it is not required, businesses should allow their employees time off work with pay when they are victims or witnesses and are called to testify in court.